

SB 411 – Generally Revise Laws Related to Taxation

Section 2 - MCA §15-1-216 – Substantial Understatement of Tax Penalty

Individual Income Tax

There is a substantial understatement of tax if the understatement is the greater of 10% of the amount required to be shown on the return or \$3,000.

Example 1:

- Taxpayer filed return and paid a tax liability of \$1,000
- Per audit - the adjusted tax liability is \$5,000

Does the understatement (\$4,000) exceed the greater of 10% of the tax required to be shown on the return ($10\% \times \$5,000 = \500) OR \$3,000?

Yes: Penalty is 20% of underpayment (\$4,000) = \$800

Example 2:

- Taxpayer filed return and paid a tax liability of \$750
- Per audit - the adjusted tax liability is \$1,000

Does the understatement (\$250) exceed the greater of 10% of the tax required to be shown on the return ($10\% \times \$1,000 = \100) OR \$3,000?

No: Penalty will not be assessed.

Corporation License Tax - Other Taxes

There is a substantial understatement of tax if the understatement exceeds the lesser of 10% of the amount required to be shown on the return (provided the understatement is greater than \$10,000), or \$500,000

Example 1:

- Taxpayer filed return and paid a tax liability of \$80,000
- Per audit - the adjusted tax liability is \$150,000

Does the understatement (\$70,000) exceed the lesser of 10% of the tax required to be shown on the return ($10\% \times \$150,000 = \$15,000$) provided the understatement is $> \$10,000$ OR \$500,000?

Yes: Penalty is 20% of underpayment (\$70,000) = \$14,000

Example 2:

- Taxpayer filed return and paid a tax liability of \$25,000
- Per audit - the adjusted tax liability is \$30,000

Does the understatement (\$5,000) exceed the lesser of 10% of the tax required to be shown on the return ($10\% \times \$30,000 = \$3,000$) provided the understatement is $> \$10,000$ OR \$500,000?

No: Penalty will not be assessed.